



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/SR.1777
8 September 2006

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-ninth session

SUMMARY RECORD OF THE 1777th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 14 August 2006, at 10 a.m.

Chairperson: Mr. de GOUTTES

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GE.06-43750 (E) 150806 080906

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Seventeenth and eighteenth periodic reports of Ukraine (continued) (CERD/C/UKR/18; HRI/CORE/1/Add.63/Rev.1)

1. At the invitation of the Chairperson, the members of the delegation of Ukraine resumed their places at the Committee table.
2. Mr. ZADVORYI (Ukraine), speaking as an official of the Ukrainian Parliament Commissioner for Human Rights (also known as the Ombudsman, or Authorized Human Rights Representative of the Verkhovna Rada (parliament)), said that the office of the Commissioner for Human Rights monitored the observance of constitutional rights and freedoms and protected the rights of everyone in Ukraine's jurisdiction. The office of the Commissioner for Human Rights was independent of all other agencies of the State.
3. After almost 40 years, the Convention was still as important as ever. The experience of Europe, in particular, showed that the rights of national, ethnic and religious minorities must be preserved and discrimination of all kinds must be prevented in order to achieve harmony between ethnic groups. Ukraine was a multi-ethnic society, as shown by the latest census results from 2001 (paragraphs 11-15 of the periodic report). Unfortunately, however, the census-takers had not correctly recorded some respondents' nationalities, as reported by the individuals concerned, or had not recorded certain groups, such as the Rusyn people, who were not officially recognized as national minorities. The Rusyn people had carried out their own census in the Zakarpatye region and had recorded a population of over 60,000. The Roma had likewise carried out a census in the Zakarpatye and Odessa regions, and had counted over 200,000 people, compared with an official figure of 46,000. Many former refugees had become integrated into Ukrainian society and had obtained Ukrainian citizenship. There were also many illegal immigrants. Members had asked how those new groups had adapted to life in Ukraine. Doubts had also been expressed as to whether the Convention was applicable to their situation, although the Ombudsman believed that it was.
4. The office of the Commissioner for Human Rights, with the support of the High Commissioner on National Minorities of the Organization for Security and Co-operation in Europe (OSCE), had monitored the situation of national minorities in six regions of Ukraine. The results had been converted into a unique report on the situation of national minorities and the protection of their rights, which he had made available to the Committee to supplement the information provided by the Government delegation. The report described negative incidents and areas of actual and potential discrimination, but also positive experiences which Ukraine could share with other countries. The Commissioner for Human Rights had recommended a number of innovative measures but unfortunately very few of them had been implemented to date.
5. Ms. KHOROLETS (Ukraine), speaking as an official of the office of the Commissioner for Human Rights, said that the post of Commissioner was a unique innovation in the Ukrainian legal system, and it was still being adjusted to enable it to work as smoothly as possible with the

rest of the legal system. The Commissioner for Human Rights was independent, politically neutral, flexible and accessible, with jurisdiction over State and local authorities and the power to initiate legal proceedings and restore rights which had been violated. Some 700,000 individuals - Ukrainian citizens, citizens of other countries and stateless persons - had appealed to the Commissioner for Human Rights in the eight years since the post had been created. Sixty-two per cent of complaints related to civil and political rights, 32 per cent to economic and social rights, and 0.5 per cent to the rights of national minorities. The Commissioner for Human Rights initiated legal proceedings in cases of human rights violations and recommended an appropriate remedy and any necessary changes in legislation or administrative procedures.

6. The current Commissioner for Human Rights, Nina Karpachova, had stood for election to the Verkhovna Rada, as was her constitutional right, and had been elected as a deputy in March 2006. Many other Government officials, including former Prime Minister Yuriy Yekhanurov, had also been elected to parliament.

7. Mr. RUDYK (Ukraine) said that the State Committee on Nationalities and Migration was currently placed under the authority of the Ministry of Justice. It had 70 employees, representing 27 regions of the country. Members had asked what nationalities were represented among the staff: no statistics were collected, but he was acquainted with Crimean Tatars, Jews, Poles and Russians.

8. The State Committee had four main functions. It was responsible for the drafting and implementation of State policy relating to national minorities and migration and for supporting the activities of national cultural associations. It was likewise responsible for the development and implementation of the policy on migration and for the implementation of the Ukrainian Refugees Act. The State Committee dealt with the repatriation of citizens who had been deported from Ukraine, including Crimean Tatars and ethnic Armenians, Bulgarians, Germans and Greeks. Finally, it worked with people of Ukrainian origin living abroad - an issue which did not come within the Committee's mandate.

9. A bill currently before the Verkhovna Rada would make substantive changes to the National Minorities Act. For the first time, penalties would be imposed for acts of racial or religious discrimination by individuals. People from national minorities would have more rights: for example, they would be able to use their own native languages, forenames and family names.

10. Replying to a question from Mr. Avtonomov, he said that the State programme to support the use of the Karaim and Krymchak languages, which were on the verge of extinction, had been completed in 2005. Another programme was currently being developed.

11. Members had asked about programmes for the spiritual and cultural development of Roma in Ukraine, which he had taken to refer to possible attempts to exert pressure on them. The State Committee worked closely with Roma cultural associations, which made a major contribution to all programmes.

12. Romani national cultural associations had to bid for funding, and their applications were considered by a nine-member panel of experts. The budget allowed was not large, amounting to approximately 1 million hryvnias in total, but it gave some indication of the Government's desire to help the Roma population.

13. Several members had referred to paragraph 87 of the report, which alleged that the low socio-economic status of Roma was partly due to their own failings. The language of the paragraph was inappropriate. If he was involved in the preparation of the next periodic report, he would make sure that no such statement appeared again. The authors of the report had meant to say that any improvement in the level of education and social development of the Roma would require efforts from both sides - the Government and the Roma themselves, through their national cultural organizations.

14. Five major ethnic groups had been deported from the Ukraine: Germans, Armenians, Bulgarians, Greeks and Crimean Tartars. The Tartars had become the main focus of attention because, unlike the other groups who could return to their country of origin, the Tartars' home was Crimea. To date some 250,000 Tartars had returned to Crimea and more than 100,000 were expected to return over the next several years. He stressed his personal commitment to improving relations between minorities and immigrant groups, including Crimean Tartars, and the State, which was additional to his work as chairman of the State Committee on Nationalities and Migration.

15. Conflict between ethnic groups could be an aggravating factor in disputes relating to land tenure. In Crimea especially, where property values were high, and there were large numbers of returning deportees, the local press tended to blame returning Tartar deportees for most land right conflicts, although official statistics showed that Tartars were involved in only approximately 8 per cent of land seizures. His Government was committed to resolving land disputes according to the law and in consultation with all parties. A major source of contention was the fact that the former Soviet collective farms had been divided among those who had been working the farms, but that made no allowance for the claims of returning Tartars.

16. Referring to press reports of violence between Tartars demanding the relocation of a market that had been built on an ancestral holy site and local Cossacks and Russians and the security forces, he said that the violence was a source of concern and his Government wished to resolve the situation to the satisfaction of all parties and in accordance with the law. He regretted that there were those who tried to exploit ethnic differences for their own purposes and pointed out that Ukraine was one of the few countries to have avoided inter-ethnic conflict.

17. Ms. BISYK (Ukraine) said that an earlier version of the draft bill on protection against discrimination had been withdrawn and the current draft had not yet been submitted to parliament. The new draft took into account the recommendations of the Committee.

18. With regard to the education of minorities, in particular the Roma, she said that the Ministry of Education and Science had implemented a programme for the social and spiritual renewal of the Roma population. One of the objectives of the programme was to ensure that Roma children attended school. In 2000 the Government had ordered that all school-age children, including Roma, be registered. In order to encourage attendance by Roma children,

their families received financial assistance, which covered educational materials; there were also special classes on Sundays for Roma children and sports camps in summer. While schools and classes for Roma were available in all parts of the country, most Roma lived in the Trans-Carpathian region, where there were approximately 6,000 Roma children attending 130 schools in the 2005/06 school year. Special classes in Roma language and literature and appropriate textbooks for all levels were provided. Round tables would be organized, in which teachers would participate, to discuss the educational needs of Roma children. Furthermore, in Crimea some 3,500 children attended schools and classes in the Tartar language; Russian-language schools and classes were also provided.

19. Turning to the issue of political parties, she said that they must all have a stated programme, but could be based on nationality or ethnicity. Any adult citizen could become a member of a political party and parties were free to function so long as they did not promote activities that were in violation of the Constitution or threatened public order. Employees of the Ministry of Internal Affairs were not allowed to engage in political activities. The rights of citizens from national minorities were protected by the National Minorities Act, whereas the rights of non-citizens and stateless persons were set out in various laws and regulations.

20. Mr. BONDAR (Ukraine) said the Government that had taken power in 2005 had set out to depoliticize the Ministry of Internal Affairs and eliminate corruption and criminal activity by the police force with a view to protecting the human rights of citizens and property rights and ensuring respect for the Constitution. As a result, investigations of more than 400 officers for violations of the rights of citizens, including the Roma, had been initiated under the Criminal Code, although no charges had been brought to date. The heads of the 27 major local police departments had been replaced and most commanding officers were currently professional law-enforcement officers. He himself was the Director of the State Department on Issues of Nationality, Migration and Registration established in 2002, which had 5,600 employees, 1,950 of them working directly with the police. He noted that only five years earlier it would have been inconceivable for civilian officials to have so much influence.

21. Ukrainian legislation guaranteed equal rights and freedoms for all citizens. Article 66 of the Criminal Code criminalized the incitement of inter-ethnic hatred or discrimination based on ethnicity; article 67 of the Criminal Code made racist intent an aggravating factor in determining sentencing. Racially motivated crimes could be punished by a fine and/or up to 5 years' imprisonment and especially grave racism-inspired activities such as genocide could be punished by imprisonment of between 10 years and life.

22. If the Committee had any specific information regarding ill-treatment of the Roma or police misbehaviour it should provide that information to the delegation for investigation by the authorities. He noted that according to official statistics, Roma were involved in less than 1 per cent of serious crimes; in many cases where Roma were sentenced to prison for criminal activities, the sentence was suspended. As for allegations that the police singled out the Roma for attention, he said that police officers were assigned to areas according to the level of criminal activity, not the ethnic composition of the population. In his own experience as a district police chief, in a district where most of the population was Ukrainian, Russian or Bulgarian, an increased police presence had succeeded in reducing the crime rate. In high-crime areas where there was a large Roma population, it was natural that many of those arrested would be Roma.

23. There was no discrimination against the Roma with regard to the issuance of official documents. Although numerous complaints had been received from citizens over the past several months, not one had come from a Roma. Any citizen from the age of 16 onwards could request a passport; Ukrainian passports did not mention ethnicity. Passports from the former Union of Soviet Socialist Republics bore a stamp indicating that the bearer was a Ukrainian citizen or temporary resident. The Ministry of Internal Affairs did not keep any statistics relating to the national or ethnic origin of passport holders. He had no information on the number of Roma employed by the Ministry but, in the Crimea, 400 employees were Crimean Tartars, including 65 from the former deported population; the officer appointed in 2000 to coordinate activities to strengthen relations between the ministry and ethnic minorities was a Crimean Tartar.

24. Because of its geographic and strategic position, Ukraine was a transit point between Asia and Europe. However, preventive measures had resulted in a reduction in the level of illegal migration. While in 2000 a total of 34,000 illegal migrants had been detained, by 2005 that number had fallen to 14,180. There had also been a decrease in the number of organized groups of illegal migrants attempting to transit to western Europe, from 2,070 groups in 2002 to 126 groups in 2005. Many illegal migrants entered Russia or Ukraine legally, and then transited illegally into the countries of the European Union. The fact that a significant number of illegal migrants did not have passports was problematic, and the process of identifying and returning them to their countries of origin was particularly difficult when those countries had no embassies in Ukraine. Funding for the forced expulsion of illegal migrants was allocated mainly from the State budget, and had amounted to some US\$ 600,000 in 2005. In order to effectively manage migratory processes, it was necessary to have not just effective visa and border controls, but also the appropriate institutions and procedures to deal with migrants detained in the country.

25. He thanked the Committee for its recommendations, which had formed the basis for the introduction of urgent measures to improve conditions of detention. In July, a body had been established within the Ministry of Internal Affairs to deal with the matter. Since August 2006, 2 of the Ministry's 37 reception centres had been closed, while in the others repairs were being carried out and rooms were being equipped with water and sanitation facilities, windows, electricity and adequate furniture. The Ministry of Internal Affairs had been instructed to establish facilities in a number of districts, but as a temporary measure local authorities allocated special hostels, which complied with human rights requirements while other accommodation was provided by international organizations and charities. However, there was still the problem of financing: although more than US\$ 20 million was required in order to ensure the functioning of the reception centres, the 2006 allocation from the State budget was only US\$ 1.4 million. Therefore, Ukraine could not resolve the problem without assistance from the European Union and international organizations.

26. The Government was currently reorganizing and reforming the whole system of law and order, and in so doing would take into account all recommendations and advice from international organizations.

27. Mr. FIRSOV (Ukraine) said that the anti-Semitic publications and racially motivated vandalism mentioned were rare and in no way systematic, and the authorities investigated all such cases on an individual basis. One problem was that the texts published were generally

based on incomplete and distorted information aimed at inciting people to intolerance. The State Committee on Nationalities and Migration had taken a number of newspapers which had allowed such articles to be published to court, which in one case had resulted in the temporary cessation of publication. A major problem in that area was that there was as yet no single, overarching expert body with competence to define what constituted anti-Semitism or incitement to hatred.

28. Acts of vandalism were severely prosecuted. However, care should be taken in such cases, since some acts could be mistakenly interpreted as anti-Semitic. For example, there had been public outrage when tombstones in a Jewish cemetery had been broken recently, but on investigation it had come to light that the perpetrators had in fact been stealing scrap metal from the cemetery and the vandalism had not been racially motivated. There had been a case of vandalism at a synagogue in Kiev, but, since the synagogue was close to the major football stadium and hooligans were known to throw bottles at windows in the area, it could not be concluded that the attack on the synagogue had been racially motivated. There had also been a case of graffiti, but, again, it had been sprayed not just on Jewish buildings, but on others as well, including the Soviet Union war memorial. The police had investigated that case and identified the culprits, against whom criminal proceedings had been instituted.

29. Mr. YERUKH (Ukraine) said that the delegation would take the Committee's comments on the structure and content of the report into account when preparing its next report.

30. Responding to questions on the situation of refugees and migrants, he said that the shortcomings in Ukrainian legislation in that area, which had been in force since 2001, had become apparent only once the legislation had been implemented. Comments on the deficiencies of the legislation had been submitted by NGOs, international organizations and the State bodies responsible for implementation. The most critical shortcoming had been that the law set a limited time frame within which applications for refugee status must be made: those in the country illegally must apply within three days, and those legally in Ukraine must apply within five days. That provision had been amended in May 2005 and the time limit had been withdrawn, so that any foreigner or stateless person, regardless of how they had entered the country and how long they had been there, currently had the right to apply for refugee status. The whole migration service had recently been reorganized and the question of delays had been resolved so that applications currently took no more than one month to review.

31. Another problem that had become apparent in the implementation of that legislation was the lack of a standard definition of the term "refugee". The definition commonly used had been based on that given in the 1951 Convention relating to the Status of Refugees, but when the legislation had been implemented it had become apparent that clearer definitions were required. The Government was therefore currently working to rectify that shortcoming. The fact that the legislation on refugees did not include provisions on temporary humanitarian protection was also being addressed.

32. Finally, the other major shortcoming related to the question of deportation. Citizens of Uzbekistan were not covered by the extended status of refugees, and unfortunately there was currently no provision on humanitarian protection which could be applied to people in that category. With regard to the case of Uzbek asylum-seekers, since various administrations had been dealing with those people and the decision on deportation had been taken by the court, the

review process and the right to appeal had not been fully observed. From a purely formal point of view, the administrative bodies had acted in accordance with the law, but because there had not been full coordination of activities, procedural mistakes had been made. In order to avoid such situations recurring, in future, deportation proceedings would be initiated only once the State Committee on Nationalities and Migration had given its consent.

33. As to the granting of refugee status for Chechens, no distinction was made between Chechens and other nationals of the Russian Federation, and their applications were considered on that basis. There were 133 refugees from the Russian Federation of Chechen origin in Ukraine. As to Uzbekistan, in 2006 three people had been granted refugee status, and the applications of another nine cases were under review.

34. The question of discrimination against refugees in the labour market was very complex. The Government understood that the problem existed and was making efforts in that area, but the problem was multifaceted given the generally high level of unemployment and the overall economic situation in Ukraine. In addition, many asylum-seekers often did not have sufficient qualifications, but efforts were being made to find suitable work for them. There were a number of small centres which sought to find work for refugees, and cooperation in that area was being extended.

35. The funds earmarked for refugees had been increased steadily in recent years to reach US\$ 2.1 million for the 2007 budget. Direct financial assistance for refugees would also be increased, in step with the country's economic growth. The Government aimed to promote the participation of particularly talented refugees in the social and cultural life of the country.

36. Staff of the Ukrainian State Committee on Nationalities and Migration Affairs came from varied ethnic backgrounds, including Russian, Jewish, Romanian, Hungarian, German and Polish. Recruitment was based on candidates' professional capacities, not skin colour. Special training courses on the human rights of migrants and refugees were conducted for police officers and migration officials. Training curricula included topics such as international human rights law and domestic refugee and asylum legislation.

37. Non-citizens were free to form voluntary associations or trade unions to promote the social interests of their community. However, Ukrainian legislation prohibited the formation by non-citizens of political parties on the basis of ethnic or national origin.

38. The maximum period of detention for illegal migrants was six months; after the expiry of that period, they must be released, irrespective of whether a final decision on their application had been taken.

39. Ms. SYNENKA (Ukrainian Parliament Commissioner for Human Rights Secretariat) drew the Committee's attention to a Special report by the Commissioner for Human Rights on the Status of Observance and Protection of the Rights of Ukrainian Citizens Abroad. The report was based on complaints received from Ukrainian citizens residing abroad; it contained valuable information on their situation and an analysis of the causes and impact of Ukrainian migration in general. The Government had formulated a relevant plan of action based on the report's findings.

40. Ms. KHOROLETS (Ukrainian Parliament Commissioner for Human Rights Secretariat) said that over the past eight years the office had received 87 complaints relating to the free use of Russian and 26 in respect of other minority languages. The exploitation of language-related issues for political ends caused a rift between the regions. The main message carried by the March 2006 parliamentary elections was the population's longing for national unity.

41. Although Ukrainian had been established as the official State language, the availability of literature and information in Ukrainian was limited. In May 2003, Ukraine had ratified the European Charter for National or Minority Languages, which had had far-reaching legal, political and economic consequences. The Charter provided, for example, for the use of Russian in all areas of public life where the population was predominantly Russian, to the detriment of the official State language. Unfortunately, the Charter had been translated incorrectly and the current Ukrainian version misconstrued its aims and purposes. It was thus necessary to retranslate the text and review ratification legislation accordingly.

42. Parliament would shortly be discussing draft legislation on minority languages, including a bill on changes needed in existing legislation. However, rather than providing for legislative amendments, as its title might suggest, the bill aimed at expanding the use of Russian. It further provided that all working languages used by State or local authorities in their communications should be considered official, thus paving the way for the potential proliferation of official languages. Those provisions undermined the status of Ukrainian as the official State language and were in breach of the Constitution. Moreover, rather than facilitating the harmonic coexistence of various languages, the bill, if adopted, would have a destabilizing effect. She urged the Committee to take those considerations into account when drafting its concluding observations.

43. It was regrettable that the United Nations had failed to adopt any resolution condemning the ethnocide of Ukrainians in 1933.

44. Mr. ZADVORYI (Ukrainian Parliament Commissioner for Human Rights Secretariat) said that the Ukrainian Human Rights Commissioner had recommended the adoption of legislation on national and ethnic minorities and the re-establishment of the former Ministry for National Minorities. The Committee might wish to take account of those recommendations when adopting its concluding observations.

45. Mr. YUTZIS pointed out that the language used in paragraph 87 was marked by prejudice and stereotyping of the Roma community. The use of such terminology was unacceptable. He encouraged the State party to examine the underlying reasons for such sentiments towards the Roma people and to take measures to generate attitudinal change. It was unclear what the notion of "improving the spiritual lives of the Roma in Ukraine" implied and it would be useful for the State party to furnish an explanation in its forthcoming report.

46. Mr. RUDYK (Ukraine) admitted that the language used in paragraph 87 of the report was unfortunate. He undertook to identify the author of that particular paragraph and to find out about the reasons for choosing such language.

47. Mr. SICILIANOS (Country Rapporteur) said that the Committee appreciated the information provided by the delegation on issues pertaining to the educational rights of minorities, especially the Roma and Crimean Tartars, and Tartar land tenure. In that connection, the delegation should comment on the veracity of recent press reports on violent clashes between Tartars and Cossacks over land claims. The Committee welcomed the State party's self-critical approach to the issue of migration and the progress achieved in that regard.

48. Conversely, additional information was required on the independence of the Ukrainian Parliament Commissioner for Human Rights following the Commissioner's election to Parliament. Despite the State party's claims to the contrary, information from credible sources suggested the persistence of police misconduct towards the Roma. Rather than proving that the problem did not exist, the absence of relevant complaints might result from fear of reprisals, unawareness of avenues for redress or lack of confidence in the justice system.

49. While the delegation had stated that there was no discrimination in the issuance of official documents, many Roma were reportedly denied social security benefits, precisely because they lacked the requisite documentation. The State party should take a close look at the situation on the ground and take the necessary remedial measures. It would further be necessary to investigate acts of vandalism with a view to ascertaining their underlying motives. The Committee had taken note of the observations of the representatives of the Parliament Commissioner for Human Rights and would bear them in mind when drafting its concluding observations.

The meeting rose at 1 p.m.